UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2002/SR.35
19 April 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-eighth session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 April 2002, at 10 a.m.

Chairperson: Mr. JAKUBOWSKI (Poland)

later: Mr. LEWALTER (Germany)
(Vice-Chairperson)

later: Mr. JAKUBOWSKI (Poland)
(Chairperson)

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GE.02-12450 (E) 150402 190402

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The meeting was called to order at 10.10 a.m.

STATEMENT BY THE CHAIRPERSON

1. The CHAIRPERSON drew the attention of the Commission to a ceremony currently being held at the United Nations in New York to celebrate the depositing of the sixtieth ratification of the Rome Statute of the International Criminal Court with the Secretary-General, as a result of which the Statute would be able to enter into force. He noted the strong support for the International Criminal Court among the members of the Commission, over 75 per cent of which had signed the Rome Statute, and he encouraged all participants to read the statement issued by the United Nations High Commissioner for Human Rights which had been distributed to members.

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2. Mr. OLARA (Special Representative of the Secretary-General on the impact of armed conflict on children), introducing his report (E/CN.4/2002/85 and Add.1) said that the deterioration of the situation in the occupied Palestinian territories was causing the loss of civilian lives, including those of women and children, and a growing humanitarian crisis. He urged the Israeli authorities to ensure that humanitarian laws, human rights standards and, in particular, the Convention on the Rights of the Child were applied in those territories.

3. He was most concerned about the fate of the children abducted from Uganda by the Lord's Resistance Army (LRA) and placed in LRA camps in southern Sudan. There were reports of major military operations currently being launched by the Ugandan People's Defence Force against the camps and he appealed to the Governments of Uganda and Sudan to ensure the protection of the abducted children.

4. He voiced his anxiety concerning allegations of the sexual exploitation of displaced persons in the camps of West Africa, many of whom were children. Such allegations were serious and should be investigated thoroughly and any persons responsible should be held to account. His office was working to put preventive measures in place to ensure the elimination of such practices and abuse.

5. Finally, he noted that, since the previous session of the Commission, the Optional Protocol to the Convention on the Rights of the Child had come into force. Such victories must be translated into tangible action on the ground to provide protection for children and to identify ways of monitoring and reporting on the protection and well-being of the child.

6. Mr. PETIT (Uruguay), Special Rapporteur on the sale of children, child prostitution and child pornography, said that it was not possible to summarize all his activities carried out during the year in a few minutes and he preferred to submit his written report (E/CN.4/2002/88) and a brief written statement in Spanish. The translations into English would be available on Friday 12 April. The lack of time available to the Commission for a proper discussion of the

various issues suggested that the human rights system was experiencing difficulties which called for new action, especially in the face of the multiple expressions of intolerance and violence which were still occurring throughout the world. He thanked the Commission for entrusting him with its mandate.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF NIGERIA

7. Mr. LAMIDO (Nigeria), after paying a tribute to the United Nations High Commissioner for Human Rights and congratulating the people and Government of Switzerland on the decision to join the United Nations, said that the current session of the Commission provided the opportunity not only to evaluate the state of human rights throughout the world but also to reaffirm the international community's commitment to the various human rights instruments, a commitment which was essential if the Millennium Development Goals were to be achieved.

8. Nigeria was, perhaps, a case study in how a Government could, with faith and commitment, make a positive change to its human rights record almost overnight. His Government had taken action to ensure that Nigeria not only complied with the provisions of the human rights instruments to which it was a party but would also be able to accede to and ratify all other instruments within a short space of time. Several human rights bills were currently before the National Assembly, with a view to bringing various provisions into domestic legislation. The Government had also approved the ratification of the Optional Protocols to the Convention on the Rights of the Child on involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. In conjunction with Nigeria's signature and ratification of the Convention itself, the Optional Protocols would ensure that Nigerian children would grow into adulthood with their human rights fully guaranteed.

9. Up to a few days previously, many Governments and human rights non-governmental organizations (NGOs) had been expressing concern over the case of a woman who had been sentenced to death in Nigeria. Some Governments had appealed for clemency, while others believed that Nigeria should be cited for gross violation of human rights. His Government's belief in the integrity of the judicial system and the rule of law had been vindicated, however, since the accused person had been set free through due process. He assured the Commission that Nigeria would continue to honour its obligations under the various human rights instruments. At the same time, he emphasized his Government's determination to uphold the supremacy of the country's Constitution, which guaranteed the federating states of Nigeria the authority and freedom to make laws in specific areas.

10. Another area of concern to Nigeria, as indeed to all developing countries, was the right to development. Without education, health, employment or housing, civil and political rights had little significance. However, the capacity of many developing countries to promote the right to development for their citizens was gravely constrained by a crippling debt burden, poverty, diseases including HIV/AIDS, tuberculosis and malaria and inadequate access to technology.

11. In Nigeria's own case, the situation was exacerbated by the continued refusal of some developed countries to repatriate Nigerian funds illicitly transferred to their banks, in spite of bilateral and multilateral appeals. It was both a human rights and a moral issue; the Commission should take the lead in the fight to repatriate those funds to their countries of origin.

12. With regard to terrorism and its impact on the promotion and enjoyment of human rights throughout the world, he said that his Government did not subscribe to the perception that every action by a people in the pursuit of its legitimate needs and aspirations should be dismissed as a manifestation of terrorism. The quest for the enjoyment of fundamental freedoms and universally accepted civil and political rights should not be construed as terrorist acts. On the contrary, any oppression of those seeking to enjoy such freedoms and rights amounted to an act of terrorism against such people. The dynamics of terrorism should be judged not only through the prism of materialism but through an enhanced knowledge of other peoples' cultures and through tolerance of other civilizations.

13. From its experience of the colonial struggles in the African continent, his people were aware that armed resistance was the only recourse available to some oppressed peoples in pursuit of their legitimate right to self-determination. While making it abundantly clear that his Government rejected terrorism in all its manifestations, believing that international law should govern the behaviour of all actors, he insisted that the conditions that fostered terrorist acts deserved the attention of the international community. The principles of justice and equity in inter-State relations should be at the forefront of concern. Only thus could a world of peace and security be created.

14. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had moved forward the international community's understanding of the causes, origins and thriving legacies of racism. At the Durban Conference, slavery and the slave trade, especially the transatlantic slave trade, had been recognized to be a crime against humanity. Many people continued to be victims of racism, however, the campaign against which would continue to be a vital task for the Commission. His Government would work assiduously with other countries to realize the Durban objectives throughout the world. It had set up a national committee comprising government officials, representatives of the private sector, academics and NGOs to study the outcome of the Conference and make recommendations on aspects relevant to the national circumstances.

15. His delegation wished to place on record its profound gratitude to the Office of the High Commissioner for Human Rights (OHCHR) for organizing the first African Regional Dialogue on Human Rights, the African Union and the New Partnership for Africa's Development Conference, held in November 2001. The Conference had agreed, inter alia, that one of the OHCHR priorities should be to engage the international financial institutions in a dialogue that would facilitate the elimination of Africa's debt burden and create smart partnerships and programmes for the consolidation of democracy, good governance, the rule of law, human rights and the eradication of poverty in Africa. There would be further dialogue on critical human rights issues in the continent and projects based on the outcomes of the Regional Dialogue and the Durban Programme of Action would be developed. His delegation looked forward to seeing such lofty goals pursued with vigour for the benefit of the developing countries.

16. Lastly, he commended the success of the OHCHR project formulation mission to his country following on the heels of the visit in 2001 by the needs assessment team charged with the responsibility of determining how OHCHR should render technical assistance and advisory services to Nigeria with a view to strengthening national capacity in the field of human rights

and fostering democratic processes in the country. He was confident that the mission and the various institutions visited in Nigeria had benefited immensely from the exchange of views and that practical evidence of their collaborative efforts would shortly be forthcoming.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued) (E/CN.4/2002/50, 51 and Add.1, 52 and Add.1, 53, 54, 55 and Add.1, 56, 57, 58 and Add.1, 59 and Corr.1, 60 and Add.1 and 2, 61, 62, 132, 133, 141, 148, 161 and 171; E/CN.4/2002/NGO/3, 4, 6, 24, 37, 48, 59, 66-69, 92, 121-123, 179-181 and 198-200; A/55/342; E/CN.4/Sub.2/2001/13)

17. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that, due to globalization, the economic, social and cultural rights of people in developing countries were under greater stress, inhibiting the realization of their right to development. Recent studies had shown that the transition from welfare State to market-driven economy had led to the dislocation of skilled and unskilled workers, causing acute unemployment. In Afghanistan, all social and economic structures had totally collapsed under the Taliban regime, and terrorism and religious extremism in Jammu and Kashmir had had a similar effect.

18. Mr. AHSAN (Interfaith International) said he wished to highlight the plight of the people of the Sindh province in Pakistan, whose economic, social and cultural rights continued to be violated by the ruling ethnic majority, the Punjabis. Sindh Province had an agrarian economy and was therefore reliant upon water from the river Sindh, but that water was being pumped to the Punjab, seriously threatening the Sindh farmers' livelihood. There were also limited employment opportunities for the Mohajirs and Sindhis in their native province, as ethnic Punjabis were brought in to staff Government and semi-Government organizations and local and foreign corporations in Sindh. There were also examples of discrimination, such as the Oil and Gas Development Corporation which employed only 230 people from Sindh out of a total of 730 staff in the region. The Commission should urge the Government of Pakistan to take steps to replace the current Constitution by one that would do justice to all the ethnic and religious minorities in Pakistan.

19. Mrs. ROBERT (Médecins du Monde) said, according to the Committee on Economic, Social and Cultural Rights, the right to health was a fundamental human right. Nevertheless, her organization regularly observed discrimination based on ethnic origin, sex or religion in access to health care; social or cultural practices that breached the principle of bodily integrity and sexual freedom and the denial or deliberate distortion of information vital to health. Despite the many obstacles facing States in achieving the realization of the right to health, they were duty-bound to protect and implement it by the instruments they had ratified. Another problem, related to globalization, concerned access to medication, with many forms of treatment being inaccessible to the vast majority of people. She thus urged the Commission to appoint a special rapporteur on the right to health and to establish a working group to consider the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights which would make those rights justiciable.

20. Mr. GUPTA (International Institute for Non-Aligned Studies) said that, without universal education, medical care and population control, the necessary conditions could not be established for the third-world countries to break out of the vicious circle of poverty into which they had

been driven by colonialization. Moreover, if girls received no education and women were not included in schemes to free them from male domination, they could be unable to contribute to the creation of a modern economic society, as was the case in many countries of Asia. Disadvantaged sectors of the population needed affirmative action and resources in order to participate in economic growth, social management and political governance. The developed countries, which had taken three centuries to create the economic infrastructure to support the economic, social and cultural rights of their populations, should help the third-world countries to move ahead with similar development and social progress, lest the growing inequalities produce more conflict and global terrorism.

21. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) said that, in recent years, his organization had tried to encourage Governments to reflect on the scope and implications of the right to education. It had recently prepared a report on freedom of education which examined the situation in 85 countries (covering 87 per cent of the world population), investigating the existence or otherwise of non-governmental or private schools and the type of financing provided by the State. One general conclusion was that the countries with high levels of freedom were also those with high levels of education, according to United Nations Development Programme (UNDP) indices.

22. Mr. TCHRANI (Organization for Defending Victims of Violence) said that the globalization process should not be appropriated by the rich to the detriment of the poor, but should represent an opportunity for all. There were currently more than one and a half billion people living in poverty throughout the world and, although the decision by the General Assembly to proclaim the United Nations Decade for the Eradication of Poverty was a welcome one, words had to be translated into actions. The key was education: poverty was the result of a lack of access to education which in turn caused poverty, a vicious circle that had to be broken. In that connection, his Organization was deeply concerned that there were still States which did not recognize development as a right, but looked upon it as a concession.

23. Ms. SOMSWASDI (Asia Pacific Forum on Women, Law and Development) said that research in the Asian region had shown that current economic policies and programmes under the World Trade Organization (WTO) agreements had had devastatingly negative impacts on the people and their environment. The many disasters that had occurred in areas where large scale commercial and development projects had been implemented by transnational corporations had affected women and girls most severely because of their lower status within society and many women had to bear the financial, physical, emotional and psychological costs more than ever before. Since women's participation in decision-making remained limited they had also increasingly become the powerless victims of development strategies. Social and environmental concerns should not be neglected for the sake of economic growth. Her organization thus called on the Commission to increase its efforts to pressure international trade institutions to recognize the primacy of human rights over trade benefits.

24. Ms. SOLON (International Centre for Human Rights and Democratic Development) said that the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, providing for an individual complaints procedure would not be a revolutionary leap forward, but simply the logical continuation of a process taking place at the international,

regional and national level. There was already a clear majority of States members of the Commission that had agreed to a complaint mechanism within a regional system. At the level of the United Nations system, such a procedure was utilized by the International Labour Organization (ILO), in connection with labour rights, and by the recently adopted Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Commission should thus establish an open-ended working group to proceed towards the early adoption of an optional protocol, with adequate funds to ensure that it had access to the required technical expertise and administrative support.

25. Ms. FRANSISKA (Asian Legal Resource Centre) said that her organization had repeatedly drawn the Commission's attention to the problems of food security in Myanmar and the absence of the fundamental rights to food and work there and had challenged the legitimacy of the military Government's claims to be working for agricultural and social development. The recent arrest of Mr. Solai Tun Than, an eminent agricultural scientist, strengthened the validity of its contentions. On his retirement after 40 years of work in State institutions, Mr. Than had founded an NGO for agricultural development in the remote hill country of Myanmar. Though internationally renowned, the NGO was systematically obstructed by the Government of Myanmar and, when Mr. Than had made a public protest against the Government, he had been sentenced to seven years' imprisonment at the age of 74. In Myanmar, where any show of independence was seen as a potential threat to the Government, no rights were guaranteed and the statistical indicators of agricultural expansion and economic progress projected by the State agencies were utterly specious.

26. Ms. LOPEZ ORTIZ (Colombian Commission of Jurists) said it was vital that the Commission should move forward towards the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. Millions of people did not enjoy even the minimum rights. The system therefore needed strengthening. Some Latin American Governments had not only not made any progress but had actually retrogressed. In Colombia, the Government had, in 2001, sought the approval of Congress for a constitutional reform cutting the education and health budgets for the next few years. The effect would be disastrous, especially in certain regions of the country. The Committee on Economic, Social and Cultural Rights had recommended that the Government of Colombia should take steps to reduce the extreme social inequality in its country. It was clear from that example that the Covenant needed to be on a par with the other human rights treaties and she trusted that the Commission would establish an intersessional working group on the subject of an optional protocol that would be open to NGOs and the social actors.

27. Ms. MJOMBE (Pax Romana) said that the outcome of the International Conference on Financing for Development had been very meagre, when compared with the amounts spent on defence worldwide. The contributions by the European Union and the United States of America, totalling about US$ 12 billion, did not cover the cost of either the health or the primary education elements of the Millennium Development Goals, each of which was estimated at about US$ 15 billion a year. In 2000, the global outlay on defence had totalled about US$ 825 billion, whereas Overseas Development Assistance (ODA) had totalled about US$ 53 billion. The contrast was quite unacceptable, since it increased the growing inequalities already so pronounced as a result of globalization.

28. Hunger and malnutrition coexisted with a surplus of food grain. WTO must give up its trade-centred regime and adopt a rights-based approach, since the lack of adequate food not only led to death but also formed part of a vicious cycle of several generations of people with underdeveloped brains. In that context, her organization welcomed the scrutiny by the Sub-Commission of the balance between the rights protected by the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement and the broader human rights of people and communities.

29. Her organization welcomed the report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/2002/61) and urged her to review the policies and practices of a number of Asian countries. The debris from the World Trade Center buildings in New York was currently being dumped in India.

30. Given the limitations to financing for development, there must be great concern about the goal of "education for all", especially for the marginalized. School fees had increased dramatically in many countries and many poor students were forced to discontinue their studies. Meanwhile, some States, such as Japan and India, were engaged in tampering with their history textbooks. In that connection, she noted that people in countries whose Constitutions recognized the fundamental right to education had begun to resort to legal remedies. The Special Rapporteur on the right to education should explore ways and means of making education more widely available and reducing the large number of school dropouts.

31. Ms. LERUINDA (Association Tunisienne pour L'Autodéveloppement et la Solidarité) said that her organization existed to help people in disadvantaged rural areas in the north of Tunisia through participatory rural development projects. It worked with other NGOs and with institutions that financed microprojects through the NGOs. Although the poverty rate had been brought down to about 4 per cent of the population, experience showed that solidarity and the struggle against poverty were of crucial importance in the promotion of human rights. The Tunisian Parliament had recently adopted an amendment to the Constitution, placing greater emphasis on the universal values of tolerance and solidarity.

32. Poverty, illiteracy and disease persisted throughout the world. The 20 per cent richest people received 86 per cent of total world income, whereas the 20 per cent poorest received less than 1 per cent. The new world order had brought about no improvements, despite all the promises. The root of the problem was the flagrant lack of solidarity between the rich countries and the poorer countries. The political will for greater justice and equity was lacking. Her organization called on States and regional and international institutions to increase their financing for development, at least to the level of the target of 0.7 per cent of gross national product (GNP). She also urged support for the Tunisian delegation's proposal, adopted by the General Assembly, that a world solidarity fund be established.

33. Ms. DE VASQUEZ (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that political repression in its grossest forms, was closely linked to the violation of economic, social and cultural rights to the extent that the spiral of human rights violations originated in situations of so-called "structural violence". A shortage of work, food,

education, health and well-being constituted as serious a violation of individual rights as torture itself. Those responsible for the major economic policies of the International Monetary Fund (IMF) and the World Bank must not close their eyes to the fact that, in Latin America at any rate, they not only deepened poverty but also incited countries to introduce political repression of the most ruthless and cruel kind. They should incorporate human rights concerns into their policies and bring their formidable human, material and technical resources to bear on improving the well-being of all humankind and not just a tiny privileged minority.

34. Ms. BIONDI (International Confederation of Free Trade Unions (ICFTU)) said that the union movement had always lobbied strongly for the recognition of the link between trade and human rights. Although the WTO failure to commit itself to addressing the relationship between trade and core labour standards was disappointing, better results had been achieved in the area of access to medication for developing countries. ICFTU would continue to press for public services, especially education and health, to be exempted from the General Agreement on Trade in Services (GATS) and for WTO to be made more democratic and gender-sensitive. WTO should also open up its mechanisms, including disputes settlement and trade policy reviews, to public scrutiny and involvement and achieve the equal participation of developing countries.

35. The Commission needed to reflect on the crisis of legitimacy faced by the international system at a time of accelerating globalization. While the ILO promoted collective bargaining as a fundamental right in Central and Eastern Europe, the World Bank had been advising countries to revise labour codes in order to restrict those very rights. The Food and Agriculture Organization of the United Nations (FAO) encouraged support for domestic industries in the poorest African countries, while the IMF criticized the same policies as being inward-oriented. WTO was set on a course of trade and investment liberalization, completely disregarding social issues, but every United Nations meeting concluded that poverty reduction, better living standards and respect for human rights should be the international priority.

36. ICFTU urged OHCHR to follow closely the debate in the newly launched ILO World Commission on Globalization, which would seek alternative answers in a world where Governments and people had lost control of the process. It was to be hoped that the World Commission would find ways of changing the globalization process so as to reduce poverty and unemployment and foster growth and sustainable development.

37. Mr. COLÁS (Liberal International) said that international organizations and human rights activists in Cuba had produced reports identifying violations of the Cuban people's economic, social and cultural rights. Although Cuba boasted of its record on education, 78 teachers had been dismissed in 2001 and threatened by the political police for not subscribing to communist ideas. Two directors of an independent college had been detained for trying to promote free education and the right of parents to educate children in accordance with their own beliefs. Books intended for independent libraries were confiscated by the political police and independent librarians were prosecuted.

38. Economic rights were not respected in Cuba either. Peasants were not at liberty to produce or sell their products. The State regulated the market and imposed prices. Machinery and land were confiscated. Workers could not form trade unions and had to support the regime.

Medical services were theoretically open to all but, hospitals caring for government officials and tourists were well equipped, whereas those for the general population often lacked essential requirements.

39. Prostitution, domestic violence and other social evils in Cuba were the result of a totalitarian State which had restricted individual freedom, destroyed the social fabric and stifled the country's development. The Government justified human rights violations on the pretext of foreign aggression, without recognizing its own political and economic failures and the poverty to which it had reduced the country.

40. Mr. PARY (Indian Movement "Tupaj Amaru") said that the deteriorating global situation of economic, social and cultural rights, which threatened the survival of peoples and nations, particularly indigenous peoples, required the countries of the North and the South to reflect on the ultra-liberal policies and structural adjustment programmes promoted by the Bretton Woods institutions. Those policies had caused chaos and disorder and allowed vital national resources to be ruthlessly exploited by transnational corporations which were the conveyor belts of globalization.

41. Despite the promises contained in the Millennium Declaration, poverty was on the increase, affecting more than 40 per cent of the world population and millions, including children, continued to die from hunger and illness. More than 80 per cent of the rural poor in the developing countries and more than 60 per cent of those in the Latin American and Caribbean countries were indigenous peoples. In all, more than 180 million people in Latin America lived in poverty or extreme poverty.

42. In a period of globalization, the external debt burden had become a mechanism for the unscrupulous expropriation of natural resources by the powerful transnational corporations. Furthermore, corruption, a serious economic crime, was commonplace at the highest levels of Governments, political parties and armed forces. The existing, profoundly unfair, international economic system must be reformed in the name of human rights.

43. Mr. DELIUS (Society for Threatened Peoples) said that South-East Anatolia, the Kurdish area of Turkey, had become a devastated region as a result of the armed conflict between the Turkish State and the radical Kurdish Workers' Party (PKK). More than 2.5 million Kurds had been displaced and 3,428 villages had been partially or wholly destroyed by the Turkish army, while the basic infrastructure and agriculture had been severely affected. Despite the stated intention of both parties to seek a peaceful political solution, many parts of the region remained a war zone.

44. Reconstruction was difficult due to apparent official reluctance to repopulate rural Kurdish areas. Many refugees remained in shanty towns and housing estates in the cities where they were deprived of basic services such as shelter, work, health and education and were discriminated against and even threatened by the majority population. Refugees who had been granted permission to return home by the civil authorities were turned back by village guards who had occupied their lands and houses or by the gendarmerie. The Commission should urge the Turkish Government to lift the state of emergency in Kurdish areas and allow the return of refugees and the reconstruction of villages.

45. Kurds applying for optional Kurdish language courses in schools and universities were harassed, and, the Turkish National Security Council had characterized petitions for Kurdish language courses as separatist activities. Despite the constitutional amendments of October 2001 which would permit Kurdish language broadcasting, the Kurdish Gun Radyo studios had been raided by the police, who had seized their equipment. The Radio and Television High Council had decided on 11 February 2002 to stop Gun T.V. from broadcasting for 365 days for playing music videos with Kurdish lyrics, on the grounds that such broadcasting incited to ethnic separatism. The Commission should urge the Turkish Government to implement the new constitutional guarantees relating to the Kurdish language.

46. Ms. MURPHY (Women's International Democratic Federation (WIDF)) said the international community should pay more attention to the plight of the Kurds living in Turkey, Iran, Iraq and Syria, whose very existence was denied and whose rights were often violently suppressed. In Turkey, students who petitioned to study Kurdish as an optional course, like mothers who demanded education in Kurdish for their children, were arrested and tried in State security courts. Kurdish women unable to speak Turkish could not consult a doctor or deal with the bureaucracy.

47. Women played an important role in cultural development and Kurdish women wanted to protect their culture and pass it on to the next generation. The Turkish Government continued to deny that non-Turkish ethnic groups existed in Turkey and even tried to force families to change children's Kurdish names to Turkish ones. Such attempts to curb social and cultural rights were anti-democratic and she called upon the Commission to take note of the situation of the Kurdish people and other peoples in similar circumstances and to send an observer to Turkey to investigate it.

48. Ms. LHADON (International Fellowship of Reconciliation (IFOR)) said that, after 50 years of Chinese administration, Tibet remained one of the poorest regions in the world and Tibetans' rights continued to be violated. Chinese economic policy enriched the Chinese Government and encouraged Chinese settlement in towns and cities, while the plight of the vast majority of Tibetans in rural areas was ignored. The increasing disparity between Tibetans and Chinese settlers was raising tensions.

49. High fees and the increasing use of Chinese as a language for education meant that most Tibetan children were not educated beyond primary school. The illiteracy rate for Tibetans was at least 60 per cent, the use of the Tibetan language in education had been downgraded and, in 1997, the Chinese authorities had announced that they were beginning to teach Chinese to Tibetan children in the first grade.

50. High fees and the lack of Tibetan medical staff restricted access by Tibetans to medical care and the potential for an HIV/AIDS epidemic, given the absence of testing, treatment or education programmes, was serious. Chinese birth-control policy which favoured the sterilization of women rather than safe-sex practices, was also a cause for grave concern. Malnutrition was widespread among Tibetan children, particularly in rural areas, resulting in high rates of stunted growth.

51. Many Tibetans did not have adequate housing, and, in rural areas in particular, they lacked basic services such as water and electricity. New housing was designed to meet the needs of the growing Chinese population, not those of the Tibetan people.

52. Unemployment amongst Tibetans remained high because Chinese settlers were preferred for jobs, many of which required proficiency in Chinese and received more pay for the same work. Other fundamental workers' rights, including the right to organize and to bargain collectively, were denied in Tibet.

53. She urged the Commission to place on record the failure of the Chinese authorities to protect in Tibet the basic rights enshrined in the International Covenant of Economic, Social and Cultural Rights.

54. Mr. SANCHEZ (American Association of Jurists) said that, at the recent World Social Forum, his organization had argued before an international people's tribunal for the abolition of the foreign debt of the poor countries, which was one of the major obstacles to the full enjoyment of economic, social and cultural rights. Corruption, embezzlement and misuse of funds on the part of the Governments of rich countries, public and private financial institutions, numerous debtor country Governments and individuals together with usurious rates of interest and scandalous repayment arrangements had greatly exaggerated that burden.

55. The elites of the North and the South had conspired together to violate the rights of the peoples of the third world, forcing them to live in inhuman or degrading conditions which threatened their very existence. The exploitation of the peoples of the third world was a crime against humanity. The debtor countries should refuse to repay their foreign debt, which was illegitimate and had, in any case, been more than repaid in usurious interest rates and payments over many years.

56. Mr. MENDOZA (International League for the Rights and Liberation of Peoples) said that the Puebla-Panama Plan for Economic Development had been agreed to by the Governments of Mexico and the Central American countries to promote trade and the movement of persons and capital by developing a major transportation and industrial corridor. The Plan would have a negative effect on lands belonging to indigenous peoples since it denied them the right to manage their natural resources for themselves and could threaten their very existence. Indigenous lands would be expropriated and the peoples themselves used as a source of cheap labour.

57. At the Xelajú forum in December 2001, more than 300 associations had met to define grass-roots alternatives to the Plan and to the future Free-Trade Agreement of the Americas (FTAA) and had rejected all imposed globalization. They had also accused the Mexican Government, which had designed the Plan, of being a proxy for the United States.

58. In some parts of the world there were countries where the Government was unable to implement economic, social and cultural rights because of external interference in the form of embargos or sanctions. The most flagrant case was that of Cuba, which had been subject to an economic embargo on the part of the United States since 1960, seriously affecting the economic,

social and cultural development of its population. Countries like Cuba and Iraq and others which refused to toe the line of a certain great Power were cruelly punished and their peoples suffered the consequences of their independence of mind.

59. Ms. FARHA (Habitat International Coalition) said that human rights defenders often found themselves in conflict with State authority. Somewhat ironically, however, as the negative effects of globalization made themselves felt, many NGOs found themselves calling for a return of State authority since NGOs and States could offer each other mutual assistance in protecting economic, social and cultural rights in the context of globalization.

60. Economic, social and cultural rights were essential guarantors of justice and civilization and could also be used to defend the legitimacy and authority of the State, and make a compelling legal case against forces which called on States to abandon their regulatory authority to manage markets. Governments, especially those of developing countries, must develop greater interministerial coordination and practical understanding of the self-preservation options offered by economic, social and cultural rights and the treaty obligations regarding them. NGOs should share experience to improve people's living conditions and enhance cooperation with Governments to promote those basic rights.

61. She urged States to improve intergovernmental and especially intragovernmental coordination to assert their economic, social and cultural right obligations, implementation of which was threatened by global social and economic policies seeking to undermine State authority.

62. The CHAIRPERSON said that, some time earlier, he had given the floor to the representative of Anti-Slavery International. In fact, however, it had been the representative of Liberal International who had spoken - out of turn and without the permission of the Chair - in violation of rule No. 43 of the rules of procedure. He would bring that matter to the attention of the Bureau and urged all participants to comply with the Commission's rules of procedure so as to avoid delays and other problems.

63. Mr. FERNANDEZ PALACIOS (Cuba), speaking on a point of order, thanked the Chairperson and the Secretariat for their impartial attitude and efforts to ensure that such irregularities were not repeated by others who might seek to abuse the Commission's patience.

64. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said he regretted that the Kurdish people of Turkey were denied the right to be educated in their own language and were accused of separatism for demanding that right. Many students and academics who had signed a petition asking that Kurdish be taught had been arrested and some even tortured. The Pontic ethnic group, of Greek origin, which lived along the shores of the Black Sea and spoke a very ancient Greek dialect, was also discriminated against.

65. His organization, which supported all those who, in all countries, sought to combat hate and xenophobia and to promote a dialogue amongst cultures, thought it was high time that the Turkish authorities revised their concept of a homogeneous State and recognized its diversity. Educational systems should not be used to eliminate diversity; on the contrary, differences should be cherished as the building blocks of humankind as a whole.

66. Ms. SHAUMIAN (International Institute for Peace) said that she would not make an oral statement. Her written presentation, which was being distributed, called upon the international community to implement the many international human rights instruments so as to promote the interests of the world's peoples.

67. Mr. BARNES (Indigenous World Association) said that the rights of the indigenous peoples of Alaska continued to be denied. He called on the Commission to support them in asserting their right to land title, to control their resources and to an end of their economic domination by a foreign minority. As the United States itself had admitted, Alaska had not belonged to Czarist Russia and the 1867 Treaty of Cession could not grant title or dominion to the United States. He, consequently, demanded the exercise of his people's economic, social and cultural rights, under their already recognized political status.

68. Having paid tribute to the Government of Cuba for resisting foreign domination and maintaining sovereignty over its lands and resources, he called upon the Commission to adopt once again a resolution to examine situations such as that of Alaska so that the wrongs of colonization could be remedied.

69. Mr. Lewalter (Germany), Vice-Chairperson, took the Chair.

70. Mr. BONDYOPADHYAY (International Council of AIDS Service Organizations) said that violations of the rights of sexual minorities in India went largely unnoticed. NGOs and community-based organizations which had heeded the Government's call to become involved in the work of the National AIDS Control Policy faced harassment from the police on a daily basis, and outreach workers were regularly beaten, blackmailed, extorted, threatened and sometimes even sexually assaulted. That impeded HIV intervention work and represented a clear violation of the rights to health, life, personal security and dignity.

71. The Indian Government allowed that harassment to occur because it did not recognize the human rights of homosexuals, lesbians and transgendered persons. Sodomy continued to be a criminal offence under section 377 of the Penal Code. Four HIV workers in Lucknow had recently been arrested, tortured, made to drink sewer water, refused medication and regularly abused and humiliated. They had been detained for 47 days and charged with conspiracy to spread sodomy. As their lawyer, he had been kept under constant observation and threatened by the police. The privilege of client-lawyer relations, a feature integral to a free judiciary, had been regularly violated. During the trial, the State's anti-homosexual position had been reinforced by the silence of the National AIDS Control Organization (NACO) which had been unwilling to defend its own policy.

72. Given the insensitive, ineffective and chaotic lower judiciary in India, it was impossible to take action against violations of sexual minority rights. Section 377 meant that victims were often criminalized themselves, but as it was difficult to prove a violation of section 377, other charges, unrelated to sexuality, were often used against men who had sex with men.

73. He urged the human rights mechanisms of the United Nations to hold the Government of India responsible for both its actions and its inaction, and to call upon it to ensure that the human rights of all citizens were respected, protected and promoted. The discrimination, arbitrary arrest, invasion of privacy, torture and criminalization of sexual minorities must end.

74. Ms. JALAL (International Human Rights Law Group) said that she welcomed the Secretary-General's report on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing (E/CN.4/2002/53). She urged the Commission to pay special attention to women in conflict and post-conflict situations and to send special missions to examine the plight of women in Afghanistan and Sierra Leone.

75. In Sierra Leone, the Constitution recognized that, under customary law, women were not allowed to own property in most parts of the country. If a woman separated from her husband or became a widow, she had to leave the land owned by her husband or marry one of his relatives. There was a great need to revise inheritance and property rights to facilitate the access to and ownership of land for millions of women who had lost their husbands in the war.

76. In Afghanistan, over 20 years of armed conflict and natural disasters had affected the rights of Afghan women to own property and land. It was essential that women, particularly those who were single, widowed or disabled, should not be left out of the reconstruction process, but should be guaranteed equal rights and access to and ownership of property. Many widows and female-headed families were returning to Afghanistan and needed help to reintegrate into society.

77. She urged the international community to support women's rights in Afghanistan and to facilitate technical support to Afghan lawyers and judges so that Afghan laws could be brought into line with internationally recognized human rights for women.

Statements made in exercise of the right of reply

78. Mr. ISCAN (Observer for Turkey) said his delegation rejected the unsubstantiated allegations made by the representative of the Greek Cypriots. He drew the Commission's attention to a letter dated 10 December 2001 addressed to the High Commissioner for Human Rights (E/CN.4/2002/130) which contained his Government's views on the question of Cyprus.

79. The United Nations peacekeeping force had been deployed in Cyprus since a Greek Cypriot attack on the Turkish Cypriots in 1963. The Greek Cypriots had staged a coup in 1974, aimed at ethnically cleansing the Turkish Cypriots from the island, and that had led Turkey to intervene in accordance with its obligations as a guarantor Power. That intervention had ensured the most fundamental human right of the Turkish Cypriots, namely, the right to life.

80. The Turkish Cypriots simply wanted to live in dignity, free from the fear of being massacred. At the initiative of the Turkish Cypriot leader, negotiations were being held between the two parties. However, the representatives of the Greek Cypriots continued unabated their vicious campaign of aggression.

81. Mr. REYES RODRIGUEZ (Cuba) said that the response of the observer for the United States of America to the report by the Special Rapporteur on the right to food (E/CN.4/2002/58) had revealed once again the double standards that country applied to international cooperation in the field of human rights.

82. Official documents showed that steps had been taken by the United States Government in 1960 that were explicitly designed to cause hunger and despair in Cuba and bring about the collapse of its Government. According to a recent study by the American Association for World Health, many Cuban people were suffering from serious malnutrition and health problems as a result of the United States embargo. His Government had to spend vast sums of money to overcome the restrictions imposed by the blockade on the trade in food.

83. The United States had further violated the right to food by conducting biological weapons attacks, causing damage to agricultural development. The Central Intelligence Agency (CIA) had been responsible for infecting Cuban livestock with Newcastle disease in 1962 and African swine fever in 1971. In 1981, the American-based terrorist organization Omega 7 had introduced dengue fever into Cuba, causing the death of 158 people.

84. Mr. BENCHERIF (Algeria) said the International Federation for Human Rights had once again felt obliged to give Algeria some lessons in economic development. That NGO did not deserve a place at the Commission. It had defended all colonial policies in Africa and had justified all massacres of colonial peoples between 1922 and 1974. It had never recognized the right of colonial peoples to protection under the Universal Declaration of Human Rights and it had never condemned apartheid. He would be interested to know its views on the exploitation of developing countries' primary commodities.

85. Ms. MINA (Observer for Cyprus) said that the statement by the observer for Turkey, which had contained false and defamatory information, had been an attempt to politicize the work of the Commission, thereby making it difficult to conduct a reasonable debate.

86. Mr. KAMARA (Sierra Leone) said his delegation rejected the unfounded allegations made by the International Human Rights Law Group. His country was one of the few States in Africa in which the rights of women were observed. Many women occupied high-level posts in the public service and many owned their own businesses and property. Among the candidates standing for president or vice-president in the forthcoming elections, there were five women.

87. Mr. SOLOMON (Observer for the United States of America), replying to the representative of Cuba, said that the Cuban Government was solely responsible for the shortage of food in its country.

88. Mr. Jakubowski (Poland) resumed the Chair.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2002/5, 7, 8, 12, 63-65, 66 and Add.1, 67, 68, 69 and Add.1, 70, 71, 72 and Add.1-3, 73 and Add.1, 74 and Corr.1 and Add.1 and Corr.1 and Add.2, 75 and Add.1 and 2, 76 and Add.1, 77 and Add.1 and 2, 78, 79, 121, 122, 124, 125, 130, 134, 137, 143, 144, 152, 154, 155, 157, 162, 163 and 170; E/CN.4/2002/NGO/1, 9-11, 16, 18, 19, 25, 30, 38, 42, 49, 53, 70-79, 100, 104, 106, 120, 126, 131-141, 144, 148, 162, 164, 177, 182-187 and 193; A/56/181 and 253; A/RES/56/143; E/CN.4/Sub.2/2001/6 and Corr.1 and 31)

89. Mr. AKRAM (Pakistan) said that the promotion and protection of human rights was the central pillar of his Government's policies. The efforts made to promote development, eradicate poverty, generate employment and address the basic macroeconomic issues needed to revive the economy, which had been on the brink of collapse, had been relatively successful.

90. His Government had focused on the promotion and protection of civil and political rights. An ambitious plan to devolve power to the grass-roots level had been successfully completed. All districts currently had governments run by the directly-elected representatives of the people. In those governments, 33 per cent of all seats were reserved for women, a measure described by the Secretary-General as a revolutionary one.

91. Elections at the provincial and federal levels would take place in October 2002. The office of the Chief Election Commissioner had been made independent for the first time in the country's history. In the federal legislature, 60 seats had been reserved for women, who would also be free to contest elections to the open seats. The system of separate electorates for the minorities had been abolished in favour of universal adult suffrage.

92. His Government had devoted serious attention to ending extremism and lawlessness. Strict action was being taken against those madrasas (Islamic schools) that had veered from their basic objective of providing education, and their curriculum was being modernized. The Government had also embarked upon a deweaponization drive, which had produced some significant results.

93. The judiciary in Pakistan remained completely free and independent. The Supreme Court had, on many occasions, upheld the rights of the citizens The media, including the written press in many languages, were also recognized to be completely free.

94. For many years, Pakistan had been the target of a coordinated, well-organized and vicious campaign of terrorism. Bus and railway stations, bazaars, courts and even places of worship had been targeted. A recent grenade attack on a church in Islamabad had resulted in the deaths of five people. His Government condemned all forms of terrorism.

95. It was regrettable that certain States seemed all too willing to indulge in such reprehensible behaviour, often perpetrated against peoples struggling to exercise their fundamental right of self-determination. It was even more ironic that the States perpetrating such atrocities labelled those freedom movements as terrorist. The Commission must not encourage those who had resorted to foreign occupation and the repression of occupied peoples.

96. India was seeking to delegitimize the Kashmiri freedom struggle by depicting it as terrorism and had accused Pakistan of sponsoring so-called "cross-border terrorism". The Kashmiri struggle was indigenous and involved not a border, but a ceasefire line dividing two parts of Jammu and Kashmir. There was no terrorism. The Kashmiri struggle was a legitimate one for the right of self-determination, endorsed by several Security Council resolutions. He called upon India to live up to its obligations to implement those resolutions, respect the wishes of the Kashmiri people, respect the desire of the international community to de-escalate the current tensions and open a dialogue with his country to achieve a just and peaceful solution to the Kashmir dispute.

97. Mr. PEREZ-VILLANUEVA y TOVAR (Spain), speaking on behalf of the European Union and of the associated countries of Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia, said that the Union welcomed the fact that a growing number of States had become parties to the International Covenant on Civil and Political Rights. The Union urged all those States that had not yet done so to become parties to the Covenant and thus achieve the universal ratification of the instrument.

98. Despite the guarantees for the protection of human rights under international law, the reports by the special rapporteurs made it clear that, in all parts of the world, people were becoming victim to summary executions, torture, arbitrary arrests and disappearances. Many Governments systematically violated the principle of the independence of judges and lawyers and the rights to freedom of expression, religion and belief.

99. The Union welcomed Human Rights Committee's General Comment No. 29 on States of Emergency (CCPR/C/21/Rev.1/Add.11) and urged States parties to respect the principles it enshrined so as to ensure that human rights violations did not occur when obligations under international instruments were suspended as a result of the proclamation of a state of emergency. It was particularly important that Governments should respect the principle of proportionality, which required that measures adopted during a state of emergency should be limited to the extent

strictly required by the exigencies of the situation. There were certain rights from which no derogation could be made, such as the right to life and the right not to be subjected to torture or other cruel inhuman and degrading treatment. Derogations must not be inconsistent with a State's other obligations under international law and must not be discriminatory.

100. Governments were responsible for amending domestic legislation to comply with international standards and to ensure their effective implementation. They should cooperate with the international treaty monitoring bodies and the special mechanisms of the Commission. The individual communications system was the most accomplished monitoring mechanism among those established in the framework of the International Covenant on Civil and Political Rights and granted the greatest level of protection to individuals. The Union called on all States parties to the Covenant to consider ratifying its Optional Protocol.

101. The Union commended the Special Rapporteur on extrajudicial, summary or arbitrary executions on her work but was deeply concerned by the fact that many of the practices described in her report (E/CN.4/2002/74) continued to take place in different parts of the world.

102. It was essential that State agents, particularly security forces, received training in human rights, especially concerning the restrictions on the use of force and firearms in the fulfilment of their duties.

103. All the members of the Union were strongly in favour of the abolition of the death penalty. Where it still existed, its use should be progressively restricted and minimum standards should apply, so that the death penalty was not imposed on persons below 18 years of age at the moment of the commission of the crime, on pregnant women or new mothers and on persons with mental disorders. Moratoriums on executions should be introduced.

104. Every act of enforced or involuntary disappearance was an outrage against human dignity. The families of missing persons were also victims. States must take appropriate steps to establish effective procedures for investigating thoroughly all cases of disappearance. The Union thus welcomed the creation of an inter-sessional working group to prepare a draft legally binding instrument for the protection of all persons from enforced disappearances.

105. The Union reaffirmed the obligation of all States to prevent acts of torture and other cruel or degrading treatment. Steps should be taken to implement safeguards and procedures against such practices, including a preventive system of regular visits to places of detention. He commended the chairperson of the working group on the optional protocol to the Convention against Torture and Other Cruel or Degrading Treatment or Punishment for her efforts in that field, and urged all the members of the Commission to support the draft resolution submitted by Costa Rica on the subject. It was important to protect and promote the rights of victims, including the right to effective remedies and compensation. All States should thus contribute to the United Nations Voluntary Fund for Victims of Torture.

106. It was regrettable that, in many countries, the practice of administrative detention placed detainees out of judicial control. States must offer effective guarantees against arbitrary detention.

107. The Union supported the work of the Special Rapporteur on the independence of judges and lawyers and reiterated the importance of Governments respecting the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors. There was a close link between the absence of independence and impartiality of the judiciary and the seriousness and frequency of human rights violations. It was particularly important that the statutes of special and military courts complied with international standards regarding their impartiality, independence and competence of judicial power designed to ensure that trials were conducted fairly.

108. The Union supported the work of the Special Rapporteur on freedom of expression and shared his concern at the continuing silencing of women. It called upon Governments to ensure equal representation and participation of women and men at all levels of the decision-making process. It welcomed the report of the Special Rapporteur on freedom of religion or belief (E/CN.4/2002/73) and hoped that all the recommendations contained therein would be effectively implemented by all States.

The meeting rose at 1 p.m.